

**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION**

**CONTINENTAL INSURANCE)
COMPANY,)**

Plaintiff,)

v.)

CIVIL ACTION NO. _____

**JAMES LEE PAGE,)
RICHARD J. EARLY,)
RICHARD EARLY CHARTERS,)
LLC, and PARSONS CORP.,)**

Defendants.)

COMPLAINT FOR DECLARATORY JUDGMENT

This is a civil action seeking declaratory relief. The Plaintiff, Continental Insurance Company files this declaratory judgment action pursuant to the Federal Rules of Civil Procedure against James Lee Page (hereinafter sometimes referred to as “Page”), Richard J. Early (hereinafter sometimes referred to as “Early”), Richard Early Charters, LLC (hereinafter sometimes referred to as “Early Charters”) and Parsons Corporation (hereinafter sometimes referred to as “Parsons”) seeking a determination that the insurance policy issued to Richard J. Early by Continental Insurance Company (hereinafter sometimes referred to as “Continental”) does not provide coverage to, or on behalf of, Richard Early and/or

Richard Early Charters, LLC for the alleged injuries to Page as the result of an alleged work-related accident that reportedly occurred on or about July 10, 2010, in or near Baldwin County, Alabama. As grounds, Plaintiff shows the following:

PARTIES

1. The Continental Insurance Company is a corporation incorporated and organized under the laws of the State of Pennsylvania and has its principal place of business in Chicago, Illinois. Continental is registered and qualified to do business in the State of Alabama as an insurance company.

2. Defendant, James Lee Page, upon information and belief, is an individual, over the age of nineteen (19) years and resides in Baldwin County, Alabama.

3. Defendant, Richard J. Early, upon information and belief, is an individual, over the age of nineteen (19) years and resides in Jefferson County, Alabama.

4. Defendant, Richard Early Charters, LLC, upon information and belief, is an Alabama limited liability corporation with its principal place of business located in the State of Alabama.

5. Defendant, Parsons Corporation, upon information and belief, is a California corporation doing business in Mobile County, Alabama.

JURISDICTION AND VENUE

6. That this Court has jurisdiction over the parties and the subject matter of this action pursuant to 28 U.S.C. 1332(a)(1). The Plaintiff and Defendants are citizens

of different states and the amount in controversy exceeds \$75,000.00, excluding interest and costs.

7. That venue is proper because Richard J. Early is a resident and citizen of Jefferson County, Alabama.

FACTUAL BACKGROUND

8. Richard Early was the owner of a yacht called the “Anna Marie.” Early signed a charter agreement with British Petroleum (hereinafter sometimes referred to as “BP”) as part of the effort to recover oil from the leaking oil well on the Gulf Coast. James Lee Page was hired by Early to work on the Anna Marie. Early was using the Anna Marie for commercial purposes in the BP cleanup program when Page reportedly suffered a work-related injury when he slipped and fell while stepping from the Parsons boat onto the Anna Marie. (See Exhibit A, BP Charter Contract).

9. Subsequently, Page filed a lawsuit against Richard J. Early, Richard Early Charters, LLC and Parsons Corporation in the Circuit Court of Mobile County, Alabama on March 4, 2010 (CV-2010-901914) for money damages alleging bodily injury, physical pain, mental anguish, physical impairment and loss of ability to earn income. The aforementioned complaint was dismissed due to lack of service on defendants Richard Early and Richard Early Charters, LLC. Subsequently the plaintiff re-filed its complaint against the defendants on March 4, 2011. Said

action is currently pending in the Circuit Court of Mobile County, Alabama. (See Exhibit B, Complaint). Richard J. Early and Richard Early Charters, LLC are seeking defense and indemnity coverage from The Continental Insurance Company relative to the aforementioned lawsuit.

10. On the application for marine insurance signed by Richard J. Early, it indicates that the Anna Marie would be used for private pleasure use only. (See Exhibit C, Marine Insurance Application).

11. The Anna Marie was insured for various coverage's under a marine insurance policy issued by The Continental Insurance Company based on the application, but not for commercial use. The policy expressly excludes coverage for commercial activities which reads in pertinent part as follows:

Private Pleasure Limitation

There is no coverage during any period of chartering, leasing, or commercial use or exhibition unless you have prior written permission from us. You are not covered if the boat is used for illegal activities.

12. The insuring agreement also excludes medical payments coverage for responsibility assumed by an insured under any contract or agreement and injury to an employee, paid captain or crew. The subject exclusion reads, in part, as follows:

Exclusions

We do not provide Medical Payments coverage for:

- A. Responsibility assumed by an insured under any contract or agreement;
...
- E. An insured's employee or paid captain or crew . . .

(See Exhibit C, Marine Insurance Program, Yacht Policy, pp. 7 & 9).

13. At all times relevant, Richard Early Charters, LLC was not an insured of The Continental Insurance Company. Furthermore, at all times relevant, Richard Early Charters, LLC and Richard J. Early were acting as contractors for BP engaged in commercial activities and did not obtain prior written permission from the Continental Insurance Company for chartering or commercial use of boat, Anna Marie.

DECLARATORY JUDGMENT REQUEST

14. Plaintiff prays that the Court find that an actual controversy exists regarding the respective rights and obligations of the parties hereto as a result of the foregoing events, including but not limited to, the duty (if any) to defend and indemnify Richard J. Early and Richard Early Charters, LLC with regard to the alleged injuries of James Lee Page.

15. Plaintiff prays that the Court find that the Plaintiff is not obligated to defend and/or indemnify Richard J. Early and that no coverage exists for Richard Early under its policy of marine insurance in regard to the damages claimed by James

Lee Page, as a result of a slip-and-fall accident alleged to have occurred on or about July 10, 2010.

16. Plaintiff prays that the Court find that “Medical Payments” coverage under its policy of marine insurance issued to Richard Early excludes employees and paid captains in regard to the alleged injuries of James Lee Paige.

17. Plaintiff prays that the Court find that “Medical Payments” coverage under its policy of marine insurance issued to Richard J. Early excludes responsibilities assumed by Richard J. Early under a contract or agreement in regard to the alleged injuries of James Lee Paige.

18. Plaintiff prays that the Court find that no coverage exists for Richard J. Early Charters LLC under its policy of marine insurance.

19. Plaintiff prays that the Court find that its policy of marine insurance excludes coverage for punitive damages claimed by James Lee Paige as a result of a slip-and-fall accident alleged to have occurred on or about July 10, 2010.

20. Plaintiff prays that the Court grant Plaintiff any other and further relief to which they are entitled in law or in equity.

Respectfully submitted,

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Please serve parties via certified mail, return receipt requested, as follows:

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Birmingham, AL 35216

Parsons Corporation
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